

EXHIBIT 5



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Transcript of Michael Sarrao

Date: May 19, 2022

Case: Reed, et al. -v- Alecto Healthcare Services, LLC, et al.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT WHEELING

-----x
KEITH REED, et al., :
Plaintiffs, :
v. : Case No.
ALECTO HEALTHCARE SERVICES : 5:19-cv-00263-JPB
LLC, et al., :
Defendants. :

-----x

Videotaped Virtual Deposition of MICHAEL SARRAO
Thursday, May 19, 2022
10:39 a.m. CST

Job No.: 449917
Pages: 1 - 184
Reported by: Tiffany M. Pietrzyk, CSR RPR CRR

1 Videotaped virtual deposition of MICHAEL
2 SARRAO, pursuant to notice, before Tiffany M.
3 Pietrzyk, a Certified Shorthand Reporter, Registered
4 Professional Reporter, Certified Realtime Reporter,
5 and a Notary Public in and for the State of
6 Illinois.

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFFS:

MAUREEN DAVIDSON-WELLING, ESQUIRE

STEMBER COHN & DAVIDSON-WELLING, LLC

The Hartley Rose Building

425 First Avenue, 7th Floor

Pittsburgh, Pennsylvania 15219

412.338.1445

ON BEHALF OF THE PLAINTIFFS:

TIMOTHY F. COGAN, ESQUIRE

CASSIDY, COGAN, SHAPELL & VOEGELIN, LC

The First State Capitol Building

1413 Eoff Street

Wheeling, West Virginia 26003

304.232.8100

ON BEHALF OF THE PLAINTIFFS:

BREN POMPONIO, ESQUIRE

MOUNTAIN STATE JUSTICE, INC.

1217 Quarrier Street

Charleston, West Virginia 25301

304.344.3144

1 A P P E A R A N C E S C O N T I N U E D

2 ON BEHALF OF THE DEFENDANTS:

3 MICHAEL S. GARRISON, ESQUIRE

4 CHELSEA E. THOMPSON, ESQUIRE

5 SPILMAN THOMAS & BATTLE, PLLC

6 300 Kanawha Boulevard, East

7 Charleston, West Virginia 25301

8 304.340.3800

9
10 ALSO PRESENT:

11 Dominic Coppola, Planet Depos Remote

12 Technician

13 Jean-Louis Ziesch, Planet Depos Videographer

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By Ms. Davidson-Welling	8

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(Attached to transcript.)

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1	P R O C E E D I N G S	09:40:12
2	THE VIDEOGRAPHER: This is the beginning of	10:38:35
3	Media Number 1 of the videotaped deposition of	10:38:40
4	Michael Sarrao, in the matter of Keith Reed, et al.	10:38:46
5	versus Alecto Healthcare, et al. in the U.S.	10:38:51
6	District Court for the Northern District of	10:38:53
7	West Virginia, case number 5:19-CV-00263-JPB.	10:38:55
8	Today's date is May 19, 2022. The time on	10:39:08
9	the video monitor is 10:39 a.m. Central Standard	10:39:12
10	Time.	10:39:17
11	The certified videographer today is	10:39:18
12	Jean-Louis Ziesch, representing Planet Depos. This	10:39:21
13	video deposition is taking place remotely.	10:39:24
14	Would counsel please identify yourself and	10:39:26
15	state whom you represent.	10:39:29
16	MS. DAVIDSON-WELLING: Maureen	10:39:33
17	Davidson-Welling, on behalf of the plaintiffs.	10:39:36
18	MR. COGAN: Timothy Cogan, on behalf of the	10:39:40
19	plaintiffs.	10:39:42
20	MR. POMPONIO: Bren Pomponio, on behalf of	10:39:46
21	the plaintiffs.	10:39:49
22	MR. GARRISON: Good morning. Mike Garrison	10:39:50
23	and Chelsea Thompson, Spilman Thomas and Battle, on	10:39:52
24	behalf of the plaintiff.	10:39:58

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1	THE VIDEOGRAPHER: The court reporter today	10:40:00
2	is Tiffany Pietrzyk, representing Planet Depos.	10:40:02
3	Would the court reporter please swear in the	10:40:03
4	witness.	10:40:05
5	(Witness sworn.)	10:40:05
6	THE VIDEOGRAPHER: You may proceed.	10:40:18
7	WHEREUPON:	10:40:18
8	MICHAEL SARRAO,	10:40:18
9	called as a witness herein, having been first duly	10:40:18
10	sworn, was examined and testified as follows:	10:40:18
11	EXAMINATION	10:40:19
12	BY MS. DAVIDSON-WELLING:	10:40:19
13	Q. Good morning, Mr. Sarrao.	10:40:20
14	A. Good morning.	10:40:22
15	Q. So my name is Maureen Davidson-Welling. And	10:40:23
16	I'm going to be taking your deposition today. I	10:40:26
17	guess as a starting point, I'll ask you to state	10:40:31
18	your full name for the record.	10:40:34
19	A. Michael Joseph Sarrao. The last name is	10:40:36
20	spelled S-a-r-r-a-o.	10:40:39
21	Q. And, Mr. Sarrao, have you ever been deposed	10:40:48
22	before?	10:40:50
23	A. I have.	10:40:50
24	Q. How many times?	10:40:51

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1	with him as well. He left in July of 2012, and I	10:48:51
2	think, joined Mr. Reddy in October 2012 with Alecto,	10:48:54
3	and I had discussions with them probably November	10:48:57
4	and December, would you like to come join us, work	10:48:59
5	with us with Alecto, so that's how I joined Alecto.	10:49:03
6	So I left Prime -- I actually did some work for	10:49:07
7	Prime when I first left, and then I started doing	10:49:09
8	work with Alecto.	10:49:11
9	Q. Okay. So after you joined -- well, so what	10:49:12
10	capacity did you join Alecto in, in January of 2013?	10:49:15
11	A. So I've been -- well, in January 2013,	10:49:18
12	executive vice president, general counsel, and	10:49:23
13	secretary of Alecto. I've been an officer of Alecto	10:49:26
14	since 2013. Never been an employee of Alecto.	10:49:29
15	Q. Okay. In addition to -- so, okay -- so, I	10:49:35
16	think you told me, you started at AHS as an	10:49:42
17	executive vice president, general counsel, and	10:49:45
18	secretary; correct?	10:49:47
19	A. Correct.	10:49:48
20	Q. Okay. Did you change roles after that?	10:49:49
21	A. Well, I had different role -- I mean,	10:49:56
22	different roles. So Alecto has subsidiaries or	10:50:00
23	affiliates. And I'm generally an officer of those	10:50:02
24	subsidiaries and affiliates. For Alecto Wheeling, I	10:50:05

1 was the CEO for an initial period of time -- I 10:50:10
2 think from January -- when it was first formed by 10:50:14
3 Alecto Ohio Valley in January '17, to right before 10:50:18
4 the closing of when we acquired the hospital June 1, 10:50:21
5 2017, I was the CEO, and then Mr. Reddy became the 10:50:25
6 CEO again. I was primarily there for purposes of 10:50:29
7 finance, given the applications and what not. 10:50:33

8 But other than that, no my role hasn't 10:50:36
9 changed. I've been executive vice president, 10:50:40
10 general counsel and corporate secretary the whole 10:50:43
11 time. And then, at some period of time -- I'm 10:50:44
12 trying to remember -- probably in end of 2013 to 10:50:46
13 2014, I joined the board of managers of Alecto 10:50:48
14 Healthcare Services LLC, and I've been in that role 10:50:53
15 the -- since that time. 10:50:54

16 Q. What year did you say you started on the 10:50:56
17 board of managers for AHS? 10:51:02

18 A. I want to say it's probably the end of 2013, 10:51:03
19 beginning of 2014. Dr. Jay Kumar had been on the 10:51:07
20 board of managers. He stepped down as a member of 10:51:12
21 the board of managers, and I became a member of the 10:51:14
22 board of managers. I don't remember the exact date, 10:51:16
23 but I want to say it's probably the end of 2013, 10:51:19
24 beginning of 2014. 10:51:22

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1	West Virginia version of that was. That kind of	14:53:28
2	stuff.	14:53:31
3	Q. In your understanding, was the 60 days	14:53:33
4	notice that was required by the WARN Act advance	14:53:35
5	written notice?	14:53:38
6	A. I mean, I'd have to go back and look at the	14:53:41
7	statute. I don't have that specific level of	14:53:44
8	knowledge on that.	14:53:46
9	Q. In 2019, were employees at OVMC given the	14:53:47
10	full 60 days notice required by the WARN Act?	14:54:08
11	A. They were given WARN Act notice. Our	14:54:10
12	position is they continued to work. They may have	14:54:13
13	been TLO, based on patient volumes, but they weren't	14:54:16
14	terminated for the expiration of that 60-day period.	14:54:19
15	I think ultimately that would be for a courtroom, or	14:54:22
16	I guess a jury to decide. But I believe they were	14:54:23
17	given the proper notice under the WARN Act, subject	14:54:26
18	to certain exceptions as well.	14:54:29
19	Q. I'm not sure that you answered my question.	14:54:39
20	In 2019, were employees at OVMC given 60 days	14:54:42
21	written notice?	14:54:46
22	A. Yes.	14:54:49
23	MR. GARRISON: I'm going to object.	14:54:50
24	(Reporter clarification.)	14:54:57

1	MR. GARRISON: My objection is it's been	14:54:57
2	asked and answered and he answered. You might not	14:54:59
3	like the answer but he did answer.	14:55:01
4	A. I believe the proper notice was given	14:55:06
5	subject to certain exceptions, but I don't believe	14:55:09
6	any employee was terminated prior to the expiration	14:55:11
7	of the 60-day period. That's my position. And	14:55:14
8	ultimately, all of us can believe what we want, but	14:55:18
9	someone else is going to make that decision.	14:55:23
10	BY MS. DAVIDSON-WELLING:	13:00:34
11	Q. You mentioned the term TLOed. What does	13:00:34
12	that mean?	14:55:35
13	A. I call it TLOed. Some people use it as	14:55:36
14	temporary layoff, but in every health care facility	14:55:40
15	I've ever been involved with -- this is probably	14:55:43
16	going on 60 now -- that based on staffing, we flex	14:55:46
17	staff off. So if there's a certain staffing	14:55:49
18	expectation, so if there's five patients in a unit,	14:55:52
19	you're going to have one nurse. And if there's	14:55:55
20	seven you're going to have two nurses. So if we	14:55:58
21	start having seven patients, and some patients get	14:56:01
22	discharged and you only have four patients, you will	14:56:03
23	try to TLO one of those nurses, and send them home	14:56:06
24	early because you don't need both nurses, because	14:56:10

1 staffing is the biggest cost a hospital has. 14:56:12

2 If your volumes get lower, if you have ten 14:56:14

3 EVS workers and you're expecting to have a hundred 14:56:18

4 patients that rooms have to be cleaned -- I'm making 14:56:21

5 those numbers up -- and that number goes down, then 14:56:25

6 you go down to eight. Or if you have ten scheduled 14:56:30

7 and you know your census is going to be less than 14:56:33

8 what -- you don't need all ten, you call them before 14:56:34

9 the shift starts, usually two hours before the shift 14:56:36

10 starts, say hey, we don't need you to come in today. 14:56:39

11 They typically use their PTO to backfill 14:56:43

12 that. I forget what they -- if they had to use 14:56:46

13 their PTO, or not use their PTO at Ohio Valley. But 14:56:48

14 that's what I mean TLO. It's kind of flex off/TLO. 14:56:52

15 That's how it's kind of used. I think the word is 14:56:57

16 TLO, but it could be flexing as well. 14:56:57

17 Q. Is there a difference between flexing off 14:57:00

18 and the temporary layoff? 14:57:04

19 A. Not that I -- not how I view it. In theory, 14:57:06

20 you could have a temporary layoff like you were 14:57:10

21 going to do construction on a unit or something like 14:57:13

22 that. Like another hospital I work with is going to 14:57:15

23 redo their cardiac cath lab, and it may be closed 14:57:18

24 for two months. Some of those people may be laid 14:57:21